Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	CC Docket No. 96-45
Federal-State Joint Board on	)	DA 98-2410
Universal Service.	)	

COMMENTS OF SPRINT CORPORATION

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SUMMARY

In this filing, Sprint Corporation ("Sprint") offers its comments on the recommendations of the Joint Board to the Commission regarding the federal universal service plan.

Sprint agrees with the Joint Board's recommendation to eliminate the 25/75 jurisdictional split funding mechanism, assuming other appropriate conditions are met. It also believes the Joint Board was correct to urge the Commission to reject the concept of state block grants since Section 254 of the Act clearly would not support the distribution of federal funds in such a manner. Finally, Sprint agrees with the Joint Board's reminder to the Commission that, with respect to the cost proxy model, it must adopt as input values only that data that are sufficiently open and available for testing and comment.

With respect to the majority of the Joint Board's recommendations, however, Sprint finds that the Joint Board avoided its charge. Rather than providing substantive guidance to the Commission, the Joint Board returned to the safety of the status quo. Perhaps the most disturbing aspect of the Joint Board's recommendation is its interpretation of Section 254 of the Act wherein it offered its opinion that the statute does not require the removal of implicit subsidies in intrastate rates. The Joint Board relies on this interpretation to send a message to the states that they need not institute universal service plans or be concerned about implicit subsidies. At the same time, it suggests, without providing any factual support for its conclusion, that the existing federal fund is

sufficient in size to address overall universal service needs. These recommendations are not logically reconcilable.

The Joint Board continues to avoid the implicit subsidies problem by attempting to shift its focus to the concept of rate comparability. Unfortunately, the Joint Board's method of ensuring rate comparability would be to maintain local rates at current levels, then provide support to high cost areas in order to bring their rates down to urban levels. The Act, while addressing comparable rates, does not envision a universal service plan that sustains current local rate levels, which are saturated with implicit subsidies, and then creates even more subsidies in an attempt to make rates comparable.

The recommendation to define a service area on the basis of a study area is seriously flawed. In performing this inexplicable about-face, the Joint Board creates more problems than it solves. First, because a study area is reflective of an existing LEC service area, there are inherent problems with using it as the basis for determining costs. Second, the Joint Board fails to address how the CLEC, whose service territory likely will not be patterned on the ILECs', will be compensated, nor how this fact will impact both the size and administration of the federal fund. Finally, the recommendation is antithetical to the continued use of the cost proxy model, the primary benefit of which is the ability to penetrate well below the study area level in order to determine the location of high cost areas.

While the Joint Board suggests the elimination of the 25/75 jurisdictional split, it offers no solid guidance to the Commission on how to determine the appropriate level of federal support. It offers up a framework for a potential mechanism, but does not provide any tangible way to arrive at determinations of need - the concept upon which its framework is based. If a state's need can somehow be established, the Joint Board recommends that a national cost benchmark be established, set at 115 to 150 percent of the national weighted average cost per line, against which a carrier's cost would be compared. While Sprint is pleased that the Joint Board is moving toward a cost-based national benchmark rate, it cannot comment on or support the range provided by the Joint Board without knowing what that rate is.

Sprint is not in a position at this time to endorse the Joint Board's recommendation that the federal high cost fund be recovered based on total interstate, intrastate and international end user revenues in view of the fact that the Commission currently requires ILECs to pass the vast bulk of their contributions onto IXC through access charges. Unless this requirement is changed, the only thing that is accomplished by the establishment of a "national fund" would be to increase the burden already placed on IXCs and their customers. Similarly, Sprint cannot endorse the recommendation that a state be permitted to "tax" interstate revenues for state USF programs since the Joint Board was not clear on what the size and specific function of state programs would be and what rules should apply to carrier recovery of state USF costs.

Finally, Sprint is concerned with the direction of the Joint Board that the Commission should provide strict guidance and express instructions to carriers regarding the manner in which they may depict USF charges on end user bills. Not only is this issue already under consideration in the Commission's Truth-In-Billing docket, but more importantly, Sprint believes that recovery of carriers' USF costs through a separate charge on customer bills is consistent with the basic principles of good government. The public, who pays for the universal service programs, should know what the costs of the programs are and thus, that cost should appear on the bill. Moreover, carriers choosing to use a line item charge for recovery of USF costs should not be prohibited from assessing a charge that is greater than the carrier's universal service assessment rate. As long as the Commission requires USF contributions to be made on a broader base of revenues than it allow them to be recovered through - which the current Commission Orders may require - the percentage recovery surcharge must always exceed the percentage contribution rate. In the end, if the Commission has a concern that a particular carrier is engaged in misleading billing practices with respect to USF, then it should take action against that carrier rather than micromanage the billing language of all regulated entities.

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COMMENTS OF SPRINT CORPORATION

Sprint Corporation ("Sprint"), on behalf of its local, long distance and wireless divisions, submits its Comments in response to the *Second Recommended Decision* [1]issued by Federal-State Joint Board on Universal Service on November 23, 1998.

INTRODUCTION

Sprint appreciates the time and effort the members of the Joint Board have dedicated to the long and arduous task of crafting the federal universal service plan. In its latest set of recommendations, the Joint Board offers advice to the Commission on a number of items integral to the success of the federal fund. On some of these points, the Joint Board has properly considered both the Commission's statutory duties as well as the realities of implementing a universal service fund in a fledgling competitive environment and offered well-reasoned recommendations. Unfortunately, the Joint Board has chosen to

[1] *Federal-State Joint Board on Universal Service*, Section Recommended Decision, CC Docket No. 96-45, FCC 98J-7 (Jt. Bd., rel. Nov. 25, 1998). ("*Second Recommended Decision*")

sidestep a number of other issues begging for resolution and, on still others, has inexplicably recommended actions that, if adopted, would cause the Commission to expressly ignore Congressional directives and disregard the realities of the telecommunications marketplace.

I. Recommendations that the Commission Should Incorporate into the Federal Universal Service Plan.

a. Elimination of the 25/75 Funding Mechanism

Addressing what has, for the states, been one of the most controversial aspects of the Commission's universal service plan, the Joint Board recommends that the Commission replace the 25/75 jurisdictional division of responsibility for high cost support. Because the Joint Board's suggestion is coupled with a suggestion that the Commission implement a national fund, Sprint supports the recommendation, assuming other conditions such as requiring carriers to recover USF support contributions through end users are included in the Commission's regime.

b. Rejection of the Concept of State Block Grants

At ¶61 of the *Second Recommended Decision*, the Joint Board recognizes that it would be inappropriate to funnel universal service funding directly to state commissions rather than to carriers. Specifically, the Joint Board reasoned that, "...we cannot recommend that the Commission adopt that mechanism, in light of

the long-standing practice at the time that the 1996 Act became law of distributing federal universal service support to the carriers providing the supported services, and the absence of any affirmative evidence in the statute or legislative history that Congress intended such fundamental shift to a state block grant distribution mechanism."[2]

Sprint believes this is sound reasoning and encourages the Commission to follow the Joint Board's recommendation on this point. Any decision regarding the distribution of fund dollars must be made before the dollars begin to flow and, under no circumstances, should be a matter of discretion. States must not be permitted to secure universal service funds associated with a high cost area and then redirect those monies to unrelated subscribers or services. The Act is clear: federal support dollars may only be used for supported services. On this point, the Commission should follow the Joint Board's lead and put to rest the suggestion of state block grants for universal service funding.

c. Federal Cost Model Should Not be Based on Proprietary Geo-Coded Data.

At ¶29, the Joint Board illuminates a problem with the development of the federal cost proxy model. It notes that currently, the platform adopted can only be tested using geocoded customer location data that is considered by its supplier to be proprietary in nature. Recognizing that the Commission is aware of the problems caused by this situation, the Joint Board nonetheless stresses its

[2] *Id.*, at ¶ 61.

belief that the Commission must adopt as input values only that data that are sufficiently open and available for testing and comment.

Sprint concurs. In fact, Sprint has raised this point on numerous occasions during the development of the HCPM platform and believes it imperative that the availability of the data necessary to run the model not be the subject of a means test. Sprint, therefore, encourages the Commission to recommit itself to the openness criteria set forth in the May 8, 1997 Order.

II. Recommendations that the Commission Must Reject.

Sprint has always appreciated that the task facing both state and federal regulators is not an easy one. The answer, however, is not to ignore the responsibility to act in the hopes that it will go away. This is, unfortunately, the avenue the Joint Board recommends on several issues. By defining a service area as a study area, it avoids the difficult task of targeting support. By claiming (without documented support) that "[P]resent rates are sufficient to cover the costs of serving most consumers across the nation"[3], it avoids dealing with the necessity for rate rebalancing. By engaging in a vague, wholly conclusory discussion of the concept of "reasonably comparable rates", it avoids entirely the need to make implicit subsidies explicit on the state level.

[3] *Second Recommended Decision*, at ¶ 15.

a. The Joint Board's Interpretation of Section 254 is Flawed.

Perhaps the most disturbing aspect of the Joint Board's recommendation is the interpretation of Section 254 upon which it relied to justify many of its recommendations. While in its *Second Recommended Decision* the Joint Board acknowledges the mandate embodied in Section 254(b)(5) that "[t]here should be specific, predictable, and sufficient Federal and State mechanisms to preserve and advance universal service"[4], in the next breath it proclaims that intrastate universal service support is not required to be explicit. At ¶26, it contends that "[t]he same competitive forces that Congress anticipated would require making interstate universal service support explicit may militate for making intrastate universal service support explicit as well. The Act, however, did not mandate such an outcome."

In what appears to be an effort to justify maintaining the status quo, the Joint Board disregards the plain language of Section 254 as well as the charge in Section 253 to remove barriers to local competition. To the extent Section 254(b)(5) did not hold sway, Sprint suggests that the Joint Board should have considered Section 254(f), which speaks directly to state authority. While it is true that Congress did not mandate individual state universal service plans, it was clear in its direction to the states that, to the extent state plans are instituted, they are not to be inconsistent with the Commission's rules. More specifically, the states are cautioned that they may adopt such rules "...only to the extent that

such regulations adopt additional specific, predictable, and sufficient mechanisms ... that do not rely on or burden Federal universal service support mechanisms."[5] The Joint Board cannot reconcile this unequivocal directive with the statements contained in ¶26.

The *Second Recommended Decision* is peppered with messages to the states suggesting that they are not required to take action on universal service or intrastate implicit subsidies. Not only does this message ignore Section 254, but also it distorts the realities of competition in the local exchange market. For instance, at the same time the Joint Board is telling the states they need not participate in meeting their own universal service needs, it also suggests that the fund that exists today is sufficient in size. Equally as inconsistent is the reasoning displayed at ¶50. Here the Joint Board asserts that as "competition threatens rate comparability or affordability in high cost areas served by non-rural carriers, it may be necessary to re-evaluate the appropriate level of federal support. Incumbent LECs to date have not demonstrated that implicit support has eroded as a result of competition." This logic fails for two reasons. First, the Joint Board appears to suggest that the ILECs possess some burden to prove the existence of competition before implicit subsidies can or will be addressed by regulators. The Act contains no such test. Second, the problem with this do-nothing, reactive approach is that it encourages uneconomic entry in areas that

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[4] *Id.*, at ¶ 24
[5] Section 254(f).

supply the implicit subsidies, i.e. low cost areas, and discourages entry in areas that receive subsidies, i.e. high cost areas. Rather than proactively encouraging efficient competitive entry in all areas of the country, the Joint Board has chosen to ignore the problem, maintain the status quo, and incent distorted entry decisions.

The Joint Board appears to believe that it can avoid the implicit subsidies problem by shifting the Commission's focus away from subsidies and toward the concept of rate comparability. It is true that Section 254(b)(3) directs that customers in rural areas should have access to services at rates reasonably comparable to rates in urban areas for similar services. However, the Joint Board reasons that the way to assist high cost areas to achieve this rate comparability is by maintaining local rates at current levels, then providing support to high cost areas in order to bring their rates down to urban rate levels. This is completely inapposite to the admonition of Section 254. The Act does not envision a universal service plan that sustains current local rate levels, which are saturated with implicit subsidies, and then create even more subsidies in an attempt to make rates comparable. Rather, it anticipates that rates will be shorn of implicit subsidies. Only then can rural and urban rates be compared based on the cost of providing service. And only then can the amount of federal support necessary to make the rates in high cost areas comparable to those in urban areas be determined, and only then should universal service support be distributed.

The Commission is well aware of the edicts set forth in Section 254, as well as its responsibilities thereunder. It must not, as it has not in its implementation of other provisions of the Act, accept the Joint Board's skewed interpretation of the statute or be tempted to take the path of least resistance by simply maintaining the status quo.

b. The Recommendation to Define a Service Area on the Basis of Study Areas is Unsound.

At ¶32 of the *Second Recommended Decision*, the Joint Board acknowledges that it had previously recommended that forward-looking economic costs be determined at the wire center level or below. It now performs an inexplicable about-face and recommends that "...federal support initially be determined by measuring costs at the study area scale, a scale considerably larger than the wire center." It also recognizes that, as competition develops, calculating costs at the study area level will be inappropriate. However, reasoning that the Commission is faced with a short time frame, it advises the use of study area average costs.

The Commission must reject this advice. First, Section 254 does not envision a universal service plan "starter-kit," crafted on the basis of expediency. It is unacceptable to knowingly institute a plan that will not accommodate competition in the local market. A study area is reflective of an existing LEC service area; this fact in and of itself signals the problems inherent with using it as the basis for determining costs. In its *May, 1997 Order*, the Commission was

unarguably clear with respect to its position on this point, noting that existing LEC service areas are too large and would increase CLEC start-up costs, thus posing a barrier to entry.[6] Moreover, the Commission expressed its concern that the service area, as ultimately defined, be small enough to ensure accurate targeting of high cost support.[7] The Commission went on to assert that:

> We agree with the Joint Board, however, that calculating support over small geographic areas will promote efficient targeting of support. We therefore adopt the Joint Board's recommendation and conclude that, after January 1, 1999, we will calculate the amount of support that carriers receive over areas no larger than wire centers (at ¶ 193).

Second, the Joint Board fails to explain just how the CLEC figures into this picture. It is quite likely that the CLEC's service territory will not duplicate the ILEC's. Consequently, it is also quite possible that the CLEC will not serve an entire ILEC study area. The Joint Board's recommendation does not appear to consider how that fact will impact both the size and the administration of the federal fund, let alone the competitive neutralities of such a regime. For example, if the CLEC serves only the urban, low-cost portion of a study area, rather than the rural or high cost areas, is it still an eligible carrier for universal service funds? Assuming it is - since the Joint Board's plan also fails to target high cost areas for funding - how can the Commission ever determine what the

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[6] *May, 1997 Order* at ¶ 184.
[7] *Id.*

size of the fund should be? How, under these circumstances, can the Joint Board state with such certainty that the current fund is adequate?[8]

The Commission's goals have not changed - nor have the realities that drove both the Joint Board and the Commission to initially reject the use of a study area as the basis for determining support levels. What's more, accepting the Joint Board's new thinking on this subject would be antithetical to the continued development and use of the cost proxy model[9], the primary benefit of which is its ability to penetrate well below the study area level in order to determine the location of high cost areas. To do otherwise will not only fail to stimulate efficient competitive entry, but will actually stifle competition.

This particular recommendation, perhaps more than the rest, reflects the Joint Board's determination to maintain the status quo, even when faced with compelling evidence to the contrary. The Commission must not take this giant step backward. It must continue to press forward and reject the Joint Board's recommendation to measure costs at the study area level.

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[8] See, ¶49 of the *Second Recommended Decision* where the Joint Board maintains that circumstances do not warrant a high cost fund that is larger than that which exists today.

[9] While the Joint Board urges the Commission and the states to continue their efforts to develop a proxy cost model, it notes that, in the event the model inputs are not finalized prior to the anticipated July 1, 1999 implementation the Commission should proceed with the present method for determining federal support. Should this be necessary, it also recommends that "...the Commission make interim adjustments to the present rules to resolve any comparability issues in rural states primarily served by a large carrier... " (at, ¶ 29). Sprint is not certain what type of "interim adjustments" the Joint Board is contemplating, however, it urges the Commission to avoid making <u>any</u> changes to current methods prior to the completion of the proxy cost model.

c. Methodology for Distributing Funds

As noted above, the Joint Board has recommended that the Commission discard the notion of a 25/75 jurisdictional division of responsibility for high cost support. However, rather than offering up a specific mechanism to be used to distribute federal universal service funds, the Joint Board proposes what it refers to as a framework for a fund distribution methodology. This framework relies upon the Commission's ability to (1) identify study areas with average forward-looking per-line costs significantly in excess of the national average cost; and (2) determine the state's ability to support its own universal service needs. It is only when a state's costs exceed both of these thresholds that federal support would be available.[10] What the framework does not do is provide to the Commission any tangible way to arrive at these conclusions.

How does one objectively identify a state's need for federal funds? The Joint Board suggests that need could be determined by looking at the cost of providing service to an area. However, while the Joint Board pays lip service to what it refers to as the "principle" of targeting high-cost support to areas with the greatest need, its overall plan fails to incorporate the concept, making the ability to define "need" exponentially more difficult. Thus, what the Commission is left with under the Joint Board's plan are cost figures representing the cost of serving a study area which, of course, will include both

urban and rural areas. Mathematically, this could disqualify a state with legitimate high cost areas from being classified as in "need" of federal universal service support.

Assuming that costs and, correspondingly, need, are established, the Joint Board goes on to suggest that federal support be made available only to carriers with average costs significantly above the national average.[11] It recommends that a national cost benchmark be established, set at 115 to 150 percent of the national weighted average cost per line, against which a carrier's cost would be compared.[12] Sprint is pleased that the Joint Board has found it appropriate to move toward a cost-based national benchmark rate; however, as pointed out by at least one Joint Board member, it is difficult to comment, much less support the overall recommended course of action without knowing what the benchmark rate will be. Without that rate, it is impossible to "...say that a cutoff in the 115-150 range will permit the Commission to strike the right balance between providing sufficient support to high cost areas while minimizing the overall burden on consumers nationwide."[13]

Once again, the Joint Board's recommendation appears to have been crafted in a manner aimed at maintaining the status quo – and setting up the federal fund as a mechanism to allow states to close their eyes to the realities of local rate levels. As Sprint has consistently asserted, the federal benchmark

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[10] *Second Recommended Decision*, at ¶42.
[11] *Id.*, at ¶43.
[12] *Id.*

should be established to represent the maximum affordable local service rate (where a cost-based rate would be prohibitive). Sprint believes that in order to ascertain what is an affordable rate, some degree of rate rebalancing is necessary. While Sprint is aware that it is the states' ultimate responsibility to make determinations regarding rate rebalancing, at the same time, the Commission must take care not to take on the burden of subsidizing local rates at current levels. Following the Joint Board's approach will cause the federal fund to do just that. The Commission must instead forge ahead and adopt an affordability standard that provides a more realistic measure of what subscribers should pay for basic local service, and provide national universal service funding only to that level. Each individual state may then elect to raise local rates to that affordability level, to fund the difference between existing local rates and that national benchmark through an intrastate-only USF, or some combination thereof.

Overall, other than suggesting that the Commission discard the notion of a 25/75 jurisdictional split and its rejection of a revenue-based benchmark, the Joint Board has offered little useful guidance to the Commission regarding how to determine the appropriate level of federal support. Certainly, the principles upon which its "framework" is based are commendable; however, because the Joint Board has declined to fill-in the framework with workable solutions, it is of questionable value.

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[13] *Id.*, Separate statement of Commissioner Gloria Tristani, dissenting in part.

d. Assessing Contributions from Carriers

The Joint Board tentatively recommended (¶63) that federal high cost support should be recovered based on total intrastate, interstate and international end user revenues, rather than just interstate and international as is presently the case, and that if the Commission adopts that approach, states should also be allowed to assess contributions for state USF programs based on interstate, as well as intrastate, revenues.

In the past, Sprint has urged the Commission to recover the costs of all federal USF programs based on a uniform percentage of end user revenues from interstate, international and intrastate telecommunications revenues that each carrier could, in turn, apply to its end user customers in the form of a simple surcharge. Thus, it might be expected that Sprint would support the Joint Board's tentative recommendation that the high cost fund assessments be based on total revenues, rather than just interstate and international revenues as is now the case. However, Sprint is not in a position to endorse the Joint Board's recommendation in view of the fact that the Commission permits - indeed requires - ILECs to pass the vast bulk of their contributions onto IXCs through access charges. Such action results in disproportionately burdening IXCs and their customers with the costs of USF programs and violates the principles of nondiscriminatory and competitively neutral recovery of USF costs. If the funding of high cost support were changed by adding intrastate revenues (which

are, for the most part, ILEC revenues) to the contribution base, but the requirement that ILECs pass their contributions on in the form of higher access charges were left unchanged, the only thing that would be accomplished would be to increase the disproportionate burden that has already been placed on long distance carriers and users of long distance services.

For similar reasons, Sprint cannot endorse the recommendation that state be allowed to "tax" interstate revenues for state USF programs. The Joint Board's decision is far from clear on what the size and specific function of state USF programs would be, and on what rules should apply to carrier recovery of state USF costs. Given these uncertainties, Sprint believes it would be premature to give any state a blank check to "tax" the interstate revenues generated by consumers within that state.[14] In particular, Sprint is concerned about the possibility that states might use such new-found authority to create vast state USF programs that keep local rates generally below costs, while maintaining existing implicit subsidies and adding to those subsidies by making toll carriers bear, directly or indirectly, a disproportionate share of state USF costs.

e. Carrier Recovery of Universal Service Contributions from Consumers.

The Joint Board expresses some concern with the way in which some carriers are recovering the costs of their universal service contributions, but does not describe the specific practices of particular carriers that give rise to this

concern. Nonetheless, in ¶68 the Joint Board recommends that the Commission provide "strict guidance" regarding the extent to which carriers recover their contributions from consumers, including "express instructions" regarding the manner in which carriers may depict these charges on bills, and recommends prohibiting the carriers from depicting such charges as a "tax" by "terms or placement on the bill." In addition, in ¶69 the Joint Board recommends that if a carrier recovers its USF costs through a separate line item charge, the "line item assessment be no greater than the carrier's universal service assessment rate." In this regard, the Joint Board expresses some concern that carriers may be allocating a disproportionate share of universal service costs to certain classes of consumers. Further, the Joint Board (in ¶70) again urges the Commission to prohibit carriers from identifying their universal service recovery charges as a "tax" or as mandated by the Commission or the federal government. Finally, the Joint Board recommends (¶72) that the Commission continues to explore, in the Truth-In-Billing docket,[15] the possibility of standard nomenclature that carriers could use on their bills to consumers.

Before turning to the specific recommendations of the Joint Board, several preliminary observations are warranted. First, as the Joint Board itself recognizes (see e.g., ¶¶66-67, 72), the issues the Joint Board has raised are already pending separately in the Truth-In-Billing proceeding and are more

[14] In no case should a state be allowed to "tax" interstate reveneus generated outside that state (i.e., by customer residing in other states).

appropriately resolved in that docket than in the context of an order in this docket addressing the development of a new high-cost fund for large ILECs. Second, as will be developed more fully below, the complexity of the universal service contribution requirements and restrictions on carrier recovery of their universal service costs are major factors in some of the apparent confusion that concerns the Joint Board. If the Commission, initially, had mandated a universal service contribution mechanism that was based upon a uniform percentage assessment on all end user revenues recoverable through a surcharge on end user bills, as Sprint and many others proposed, much - perhaps all - of the ensuing confusion could have been eliminated.

Sprint believes recovery of the carriers' USF costs through a separate charge on end users' bills is consistent with basic principles of good government. If the Commission is proud of its universal service programs, it should not be ashamed to let the public - who ultimately pays for these programs - know what the costs of these programs are. Sprint will not here debate whether mandatory USF contributions are a "tax" as a term of art, but the Commission cannot escape the fact that these government-mandated contributions are very much in the nature of a tax. They are not a cost - like labor, equipment, supplies and advertising - that any carrier can directly control. And no party seriously disputes the carriers' right to recover their USF contributions through a charge

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[15] CC Docket No. 98-170.

that is separate from other charges on their bills. Rather than create a complicated scheme for assessing contributions and placing complicated strictures on how carriers may recover those contributions, as the Commission has done up to this time, the Commission should perhaps consider simplicity as an overriding virtue on a going-forward basis.

In evaluating the specific Joint Board recommendations, Sprint believes it would have been helpful if the Joint Board had described in detail the particular practices that it found to be misleading. It is not clear whether the Joint Board is concerned with practices widely engaged in by substantial numbers of carriers, or just isolated practices of a few. If it is just a few carriers whose practices are cause for concern, Sprint believes it is far better to "punish the guilty" than to impose new layers of regulation on the whole industry, "guilty" and "innocent" alike. Not knowing precisely what practices the Joint Board finds troublesome, Sprint can only address the Joint Board's recommendations with reference to its own conduct.

The recommendation in ¶68 that the Commission give "strict guidance" with "express instructions" regarding the manner in which carriers may depict their USF-recovery charges on their bills is, in Sprint's view, unnecessary. We respectfully refer the Commission to our November 13, 1998 Comments and our December 16, 1998 Reply Comments in the Truth-In-Billing docket, which we hereby incorporate by reference.

As for the recommendation in ¶68 that carriers be prohibited from depicting such charges as a "tax" by "terms or placement on the bills," Sprint believes its own practices are fully justifiable. The line item that Sprint uses to recover its USF costs is "Carrier Universal Service Charge," or "CUSC" for short. This term was intentionally chosen by Sprint to make clear that it is a charge that Sprint, as a carrier, is imposing, rather than a "tax" that is being directly assessed. We note, in this regard, that our term is very close to the Joint Board's proposed standard term of "Federal Carrier Universal Service Contribution" proposed in ¶72. Sprint's line item does appear in a section of the bill labeled "Taxes and Regulatory-Related Charges," but there is nothing misleading or inaccurate about this. Sprint's own USF costs are clearly "regulatory-related." The fact that Sprint must contribute to the cost of federal USF programs, as well as the amount of its universal service funding costs, are both the product of regulation, and it is entirely fair to denominate a charge intended to cover these costs as a "regulatory-related" charge.

There are several flaws in the Joint Board's recommendation (¶69) that carriers choosing to use a line item charge for recovery of universal service costs be prohibited from assessing a charge that is greater than the carrier's universal service assessment rate. Chief among them is the possible divergence between the manner in which contributions are assessed on carriers and the manner in which carriers are permitted to recover their contributions from consumers. As the Commission is aware, at the present time, the contributions for the schools,

libraries and rural health care programs are assessed based on all retail revenues, including intrastate revenues. However, in its initial Report and Order in this docket, the Commission directed that carriers must recover these costs "solely via rates for interstate services."[16] There is some ambiguity in this language. It may mean simply that carriers must tariff their USF-recovery charges in the federal jurisdiction but are free to apply those charges to all the customer's usage, including intrastate as well as interstate/international. On the other hand, the Commission may have intended that any line item surcharge could be applied only to the customer's interstate usage. This would inevitably mean that the surcharge rate would have to be higher than the contribution rate. To use a simple example, if a carrier derives half of its end user revenues from interstate/international usage and half from intrastate usage, and the assessment rate were one percent of all such revenues, then the surcharge rate, applied only to international/interstate usage, which have to be at least two percent to recover the universal service contributions. Faced with this ambiguity, out of an abundance of caution, Sprint chose to apply its CUSC only to revenues from federally tariffed services, which is one reason why its CUSC is greater than the sum of the two separate assessment rates on which Sprint must pay into the fund. However Sprint does believe it is reasonable to interpret the USF order as permitting such a surcharge to be applied to a customer's intrastate usage as well. This issue was squarely raised in a petition for declaratory ruling filed

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[16] *May, 1997 Order*, at ¶838.

April 3, 1998 by MCI, on which the Commission has not yet acted. In any event, as long as the Commission requires USF contributions to be made on a broader base of revenues than it allows them to be recovered through, the percentage recovery surcharge must always exceed the percentage contribution rates.

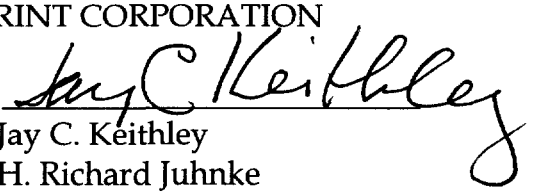
There are at least two other reasons why the surcharges can be expected to exceed the contribution rates. The first, which particularly applies to long distance carriers, is that their universal service costs consist not only of their direct contributions to USAC, but also of their indirect funding of over 90 percent of the local exchange carriers' contributions, again by Commission mandate. The Commission in effect prohibited ILECs from recovering their universal service costs through end user surcharges and instead expressly permitted exogenous cost adjustments to allow recovery of the ILEC's USF costs from interstate access charges. These indirect USF costs are every bit as real as the USF contributions paid directly to USAC. There is no reason why the Commission should preclude IXCs from recovering these indirect USF costs through their USF recovery charge. Second, no carrier receives 100 percent of the revenue it is billed. In order to cover $100 of cost, the carrier must build into its rates more than that amount in order to ensure that, after uncollectibles, it will recoup that amount. Thus, if a USF-related surcharge is sufficient to enable a carrier to recover its USF-related costs, it must, all other things being equal, be set at a level higher than the underlying contribution rate.

The Joint Board also raised a concern in ¶69 that some carriers may be allocating a disproportionate share of universal service costs to certain classes of consumers. Again, Sprint has no idea what particular carrier practices gave rise to this concern, but Sprint is not attempting to use the CUSC for one group of customers to defray the costs attributable to any other group of customers.

The other recommendations of the Joint Board, in ¶¶70 and 72, have already been addressed above implicitly. Sprint does not attempt to portray its CUSC to its customers as a tax but does explain to customers that the CUSC is intended to recover Sprint's government-mandated contributions to universal service funds. Sprint believes this is an entirely fair characterization. We do not believe that the Commission should establish standard nomenclature that must appear on carrier's bills or require standard explanations of line items. If the Commission has concerns that a particular carrier is engaged in misleading practices, it should take action with respect to that carrier, rather than micromanage the billing language of all its regulatees.

For the reasons set forth herein, Sprint encourages the Commission to reject those aspects of the Joint Board's recommendation that retreat from the statutory obligation to remove implicit subsidies, to develop a competitively neutral universal service support mechanism, and to otherwise set the stage for the development of real, sustainable local competition.

Respectfully submitted,
SPRINT CORPORATION

By 

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December 23, 1998

CERTIFICATE OF SERVICE

I, Pete Sywenki, hereby certify that I have on this 23rd day of December 1998, served via U.S. First Class Mail, postage prepaid, or Hand Delivery, a copy of the foregoing "Comments of Sprint Corporation" In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, DA 98-2410, filed this date with the Secretary, Federal Communications Commission, to the persons on the attached service list.

Pete Sywenki

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